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BAY AREA RAPID TRANSIT DISTRICT

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

JOSEPH JAMES GREER,

Plaintiff,

v.

CITY OF HAYWARD, BAY AREA
RAPID TRANSIT DISTRICT, and DOES
1-50,

Defendant.

) Case No. 3:15-cv-02307-WHO

) **DECLARATION OF LANCE**
) **HAIGHT IN SUPPORT OF**
) **DEFENDANT BAY AREA RAPID**
) **TRANSIT DISTRICT'S MOTION**
) **FOR SUMMARY JUDGMENT OR**
) **PARTIAL SUMMARY**
) **JUDGMENT AND**
) **MEMORANDUM OF POINTS**
) **AND AUTHORITIES IN SUPPORT**
) **THEREOF**

Date: January 4, 2017

Time: 2:00 p.m.

Court Room: 2

I, Lance Haight, declare:

1. I am a Deputy Chief for the BART Police Dept.

2. I graduated from the Oakland police academy in 1998. I was hired by the BART Police Department in November 1997.

3. I was a patrol officer from November 1997 to November 2004, a patrol Sergeant from November 2004 to November 2009 and Internal Affairs Sergeant from November 2009 to

December 2011. As an Internal Affairs Sergeant, I authored the Internal Affairs policy,

implemented the Internal Affairs database and completed numerous investigations. In December

2011 I was promoted to Lieutenant and I was the lieutenant supervising Internal Affairs until

1 January, 2016. During that time I was also assigned to be the lieutenant over Personnel and
 2 Training from January 2012 to January 2013. As a lieutenant I revised and implemented Internal
 3 Affairs policies and designed and implemented the department Early Warning System. In January
 4 2016 I was selected to serve as Acting Deputy Chief in which I had oversight of Professional
 5 Standards and Training, which includes the Internal Affairs Unit and the Personnel and Training
 6 Unit. As Acting Deputy Chief, my duties included review and oversight of use of force incidents
 7 and oversight of departmental recruiting, hiring and training. I was promoted to Deputy Chief in
 8 October, 2016.

9 4. I earned a Bachelor of Arts degree in Architectural Engineering from California
 10 Polytechnic State University/San Luis Obispo in 1994 and a Master's degree in Homeland Security
 11 from American Military University in 2009. I have Advanced, Supervisory and Management
 12 Certificates from California Peace Officer Standards and Training (POST).

13 5. The BART Police Dept. does not have a policy, custom or practice of committing,
 14 ratifying or condoning constitutional violations. In fact, the BART Police Dept. has sustained
 15 fifteen (15) use of force incidents since 2007 out of 1,789 reported use of force incidents. Any
 16 force used to overcome resistance, regardless of the amount or nature of force used, requires a
 17 written use of force investigation and report pursuant to BART policy. I am not aware of any
 18 other police agency in the Bay Area that employs such a low threshold for what qualifies as a
 19 reportable use of force. Accordingly, the BART Police Dept. reports, investigates and reviews
 20 many more use of force incidents that would not be considered by other police departments to be a
 21 use of force.

22 6. Use of force incidents are investigated by a police supervisor who then prepares a
 23 use of force report. The use of force report is then reviewed by the Watch Commander, the Use of
 24 Force Review Board, the Operations Deputy Chief and the Professional Standards and Training
 25 Deputy Chief. Each step in the review process includes a determination as to whether the use of
 26 force was justifiable or not justifiable. Ultimately, the Chief of Police reviews the use of force
 27 reports and has the authority to accept or reject those findings. The purpose of this multi-level
 28 review process is transparency and accountability.

1 7. Anyone in the review process can request that Internal Affairs conduct its own
 2 investigation. Internal Affairs can also initiate its own investigation. BART also has an Office of
 3 Independent Police Auditor which has unfettered access to all police records including use of force
 4 investigative reports and Internal Affairs investigations. The Office of Independent Police Auditor
 5 reviews Internal Affairs investigations including excessive force complaints. If the Office of
 6 Independent Police Auditor receives a complaint of excessive force, they conduct their own
 7 investigation of the incident and presents its findings to a Citizens Review Board. Any
 8 discrepancies between the findings of the BART Police Department and the Office of Independent
 9 Police Auditor are submitted to BART's General Manager.

10 8. The subject incident was investigated by the Internal Affairs unit of the BART
 11 Police Dept. pursuant to standard protocol for an in-custody death or an officer involved shooting.

12 9. BART Police Dept. has a training program that surpasses the requirements of Peace
 13 Officers Standards and Training (POST). POST requires 24 hours every two years and the BART
 14 Police Dept. provides a minimum forty hours of POST training every year.

15 I declare under penalty of perjury under the laws of the State of California that the
 16 foregoing is true and correct, is within my personal knowledge and if called as a witness I am
 17 competent to testify thereto. Executed on November 28, 2016, at Oakland, CA.

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 19 
 LANCE HAIGHT